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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DONADO, FRANK E

ART UNIT

PAPER NUMBER

2617

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,591	Applicant(s) CHAUHAN ET AL.	
	Examiner FRANK DONADO	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2, 4-16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-16 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 January 2006 and 19 December 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 12/19/08 has been entered. Claims 1, 2, 4, 5, 9, 11 and 14-16 have been amended. Claims 3, 17 and 18 have been cancelled. Claims 19-23 have been added. Claims 1, 2, 4-16, and 19-23 are currently pending in this application, with claims 1 and 16 being independent.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic

document on compact disc).

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: On pg. 4, device 1, communications face 12, lens 14, imaging face 1, aperture 11 and corresponding aperture 81 are not shown in Figure 6, on pg. 6, imaging face 18, lens 14, digital camera 29 are not shown in neither Figure 1 nor Figure 3, on pg. 7, flanges 100 are not shown in neither Figure 1 nor Figure 3, on pg. 8, on/off key 64, volume/scroll key 66, camera function key 68 and voice tag key 70 are not shown in neither Figure 1 nor Figure 3, on pg. 9, infrared connector 72, earpiece 76 and battery compartment 78 are not shown in Figure 3, on pg. 10, sides 90 are not shown in Figure 4 and trim 60 is not shown in Figure 2 and on pg. 12, vertical axis 112 and audio axis 110 are not shown in neither Figure 8 nor Figure 9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, 7-16, 22, and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Sekine, et al (**US Patent No. 6,336,037**). From now on, Sekine, et al, will be referred to as Sekine.

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Regarding claim 1, Sekine teaches a casing for a handheld device providing a face for providing an input region having a defined viewing axis and having an audio axis, the casing providing for speaker and microphone outlets spaced along the audio axis, the audio axis being substantially aligned with a greatest span of the face, wherein the face has one elongated diagonal and one truncated diagonal **(The viewing axis is the display, the audio axis extends from the speaker 13 to the microphone 14, indicating said speaker 13 and said microphone 14 outlets are spaced along the audio axis, where microphones 13a through 13e in Figure 8 define different positions for the microphone and in turn that said audio axis is substantially aligned with a span of the face whose size is dependent on the position of said speaker 13a through 13b, and said position 13a is the point where the audio axis comprises the shortest span of said face, Column 3, lines 35-38, 46-48 and 63-67, Column 4, lines 62-65, Column 6, lines 42-48)**. It would have been an obvious matter of design choice to lengthen the span of the audio axis, or to shorten the other span, or to lengthen the diagonal between a first pair of corners and shorten/truncate the diagonal between a second pair of corners, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claims 2 and 7-13, Sekine teaches a casing for a handheld device in accordance with claim 1. Sekine further teaches the greatest span is the elongated

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diagonal across the face 7, the greatest span of the face terminates at a point, the greatest span of the face terminates at a point at both extremities, an intersection of the defined viewing axis and the audio axis occurs in the display region of the face, the display region is substantially in the centre of the face, an intersection of the defined viewing axis and the audio axis occurs at the input region of the display, and the face is generally rectangular, where said casing houses a handheld telecommunications device **(In fig. 8, component 13 is the speaker, and the speaker may be positioned at different points 13a through 13e, such that the greatest span is a diagonal across the face and one diagonal is more elongated than the other truncated one, terminates at a point at both extremities, and has a display that is part of an input/output section 12 in Figure 5, where the device is rectangular-shaped and a handheld telecommunications device, Column 5, lines 5-14 and Column 6, lines 42-48).**

Regarding claim 14, Sekine teaches a handheld telecommunications device according to claim 13. Sekine further teaches the viewing axis and the audio axis are misaligned such that rotation of the audio axis in the face of the casing for alignment of the speaker outlet and microphone outlets with an ear and a mouth respectively of a user, when moving from a viewing position to a listening position is greater than that required for alignment of the viewing axis with the ear and mouth **(The speaker may be positioned at different points in the device, causing the audio axis to be aligned in the same manner as the device in this claim, where 14 in Figures 5 and**

8 are the microphone, Column 5, lines 14-17 and Column 6, lines 42-48).

Regarding claim 15, Sekine teaches a handheld telecommunications device according to claim 13. Sekine further teaches the device is configured to be held in a hand of a user in a proper orientation for viewing the display, and lifted to an ear in proper orientation for audio communication whilst maintaining substantially a same alignment of fingers of the hand relative to a direction of a lower arm of the user **(See Figure 9. Also, it is commonly known in the art for hand-held devices to allow for maintaining substantially the same alignment of the fingers relative to the direction of the lower arm of the user).**

Regarding claim 16, Sekine teaches a casing for a handheld device providing a face for providing an input region having a defined viewing axis and having an audio axis, the casing providing for speaker and microphone outlets spaced along the audio axis, the audio axis being substantially misaligned with respect to the viewing axis, the audio and viewing axes intersecting on the face **(The speaker may be positioned at different points in the device, causing the audio axis to be aligned in the same manner as the device in this claim, where 14 in Figures 5 and 8 are the microphone and 13 is the speaker, Column 5, lines 14-17 and Column 6, lines 42-48).** Sekine does not teach the face has an elongated diagonal between a first pair of opposite corners and a relatively shorter truncated diagonal between a second pair of opposite corners. It would have been obvious to one of ordinary skill in the art at the

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time of the invention to locate the elongated and the truncated diagonal on opposite ends of the casing, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Further, it would have been an obvious matter of design choice to lengthen the diagonal between a first pair of corners and shorten/truncate the diagonal between a second pair of corners, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 22, Sekine teaches a casing for a handheld device in accordance with claim 16. Sekine does not teach the speaker outlet and the microphone outlet are located proximate the first pair of opposite corners. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine to rearrange the speaker and microphone to be positioned proximate the first pair of opposite corners, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claim 23, Sekine teaches a casing for a handheld device in accordance with claim 16. Sekine does not teach the casing comprises: a first member extending along a first two sides of the casing and a first one of the second pair of opposite corners, wherein the first one of the second pair of opposite corners is located between the first two sides of the casing, and a second member extending along a

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second two sides of the casing and a second one of the second pair of opposite corners, wherein the second one of the second pair of opposite corners is located between the second two sides of the casing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine to make the members of said casing separable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. In *re Nerwin v. Erlichman*, 168 USPQ 177, 1 t. In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine to change the shape of said members to have a first member extending along a first two sides of the casing and a first one of the second pair of opposite corners, wherein the first one of the second pair of opposite corners is located between the first two sides of the casing, and a second member extending along a second two sides of the casing and a second one of the second pair of opposite corners, wherein the second one of the second pair of opposite corners is located between the second two sides of the casing, since it has been held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. In *re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). For further clarification, and as an example, even if the limitation of a mobile phone constructed in the shape of a tooth is not taught by any prior art, it would still not be patentably distinguishable from any other mobile phone not constructed in the shape of a tooth, since constructing a phone in this shape serves a purpose related to ornamentation only and has no mechanical function.

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7. Claims 4-6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekine, in view of Kulberg, et al (**US Patent No. 5,850,612**). From now on, Kulberg, et al, will be referred to as Kulberg.

Regarding claims 4-6, Sekine teaches a casing for a handheld device in accordance with claim 1. Sekine does not teach the truncated diagonal runs terminate at a rounded corner, the truncated diagonal terminates at a rounded corner at both extremities, and the rounded corners provide two sweeping sides. Kulberg teaches the truncated diagonal run terminates at a rounded corner, the truncated diagonal terminates at a rounded corner at both extremities, and the rounded corners provide two sweeping sides (**Components 112 and 118 are the rounded corners in Figure 10, Column 11, lines 13-18 and 46-57**). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine to include rounded corners for the benefit of ergonomics and aesthetics.

Regarding claim 19, Sekine teaches a casing for a handheld device in accordance with claim 16. Sekine does not teach at least one of the second pair of opposite corners forms a sweepingly curved corner between two sides of the casing. Kulberg teaches at least one of the second pair of opposite corners forms a sweepingly curved corner between two sides of the casing (**Components 112 and 118 are the rounded corners in Figure 10, Column 11, lines 13-18 and 46-57**). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

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invention of Sekine to have at least one of the second pair of opposite corners form a sweepingly curved corner between two sides of the casing for the benefit of ergonomics and aesthetics.

Regarding claim 20, Sekine, in view of Kulberg, teaches a casing for a handheld device in accordance with claim 19, where at least one of the corners of the first pair of corners has a pointed shape and is located on the same casing (**Components 112 and 118 are the rounded corners in Figure 10, Column 11, lines 13-18 and 46-57**).

Sekine, in view of Kulberg, does not teach said first pair of pointed corners are located on opposite ends of the same casing and is angled more abruptly between two sides of the casing than the sweepingly curved corner. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine, in view of Kulberg, to locate the pointed and the rounded corners on opposite ends of the casing, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Further, it would have been an obvious matter of design choice to modify the invention of Sekine, in view of Kulberg, to have said pair of pointed corners be angled more abruptly between two sides of the casing than the sweepingly curved corner, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 21, Sekine, in view of Kulberg, teaches a casing for a handheld device in accordance with claim 20. Sekine, in view of Kulberg, does not teach the speaker outlet and the microphone outlet are located proximate the first pair of opposite corners. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Sekine, in view of Kulberg, to rearrange the speaker and microphone to be positioned proximate the first pair of opposite corners, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Response to Arguments

7. Applicant's arguments, filed 12/19/08, with respect to claim 13 has been fully considered and are persuasive. The objection of claim 13 has been withdrawn.

8. Applicant's arguments, filed 12/19/08, with respect to claim 14 have been fully considered and are persuasive. The 112 rejection of claim 14 has been withdrawn.

9. Applicant's arguments regarding claims 1 and 16, filed 12/19/08, have been fully considered but they are not persuasive for the following reasons:

Regarding there being no disclosure or suggestion in Sekine et al. of applicants' claimed face having one elongated and one truncated diagonal, such as X' and Y' in Figure 1 on pg. 10 of arguments, respectively, while there is no disclosure or suggestion in Sekine et al. of applicants' claimed face having one elongated

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and one truncated diagonal, such as X' and Y' in Figure 1 on pg. 10 of arguments, respectively, the court decision ruling states that such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Therefore, no reference needs to be provided to reject this size limitation.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK DONADO whose telephone number is (571)

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270-5361. The examiner can normally be reached Monday-Friday, 9:30 am-6 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6361.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-273-8300.

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